

August 16, 2006

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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Seattle, Washington 98104
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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L04ALT04**
Proposed Ordinance No. **2006-0296**

WOODSIDE AT MCGARVEY PARK
Plat Alteration Application

Location: North of Southeast 165th Way, west of Parkside Way Southeast

Applicant: **Sierra Homes Inc.**
Attention: Dan Finkbeiner
P.O. Box 59566
Renton, Washington 98058
Telephone: (425) 471-3472

King County: Department of Development and Environmental Services,
represented by **Kim Claussen**
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-7167
Facsimile: (206) 296-7051

SUMMARY OF DECISION/RECOMMENDATIONS:

Department's Preliminary Recommendation:	Approve with conditions
Department's Final Recommendation:	Approve with conditions
Examiner's Decision:	Approve with conditions

EXAMINER PROCEEDINGS:

Hearing opened:	August 3, 2006
Hearing closed:	August 3, 2006

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Applicant:	Sierra Homes, Inc. PO Box 5966 Renton, WA 98058 425-471-3472
Owner:	Fire District No. 40 10828 SE 176 th Street Renton, WA 98055 425-255-0931
Engineer:	Otak 620 Kirkland Way, Suite 100 Kirkland, WA 98033 425-822-4446
STR:	25-23-05
Location:	The site lies north of SE 165 th Way, west of Parkside Way SE
Zoning:	R-6
Acreage:	Tract I is approximately 33,000 square feet in size
Number of Lots:	1
Sewage Disposal:	Soos Creek Water and Sewer District
Water Supply:	Cedar River Water District
Fire District:	Fire District No. 40
School District:	Kent School District No. 415
Application Date:	Submitted December 13, 2004 Complete January 13, 2005

2. Except as modified herein, the facts set forth in the DDES reports to the Examiner and the DDES and King County Department of Transportation testimony are found to be correct and are incorporated herein by reference.
3. The subject property consists of Tract I within Division 5 of the *Woodside at McGarvey Park* portion of the approximately 492-acre *McGarvey Park* residential subdivision development located east of Renton in the Fairwood area. It lies north of Petrovitsky Road and Petrovitsky Park via Parkside Way Southeast. Adjacent to the north of the tract is a Bonneville Power Administration (BPA) power transmission corridor. Crossing along the east side of the tract is a regional gas pipeline utility easement. Water supply to the subdivision is provided by the Cedar River Water District and sanitary sewer service by the Soos Creek Water and Sewer District. The original subdivision action was processed under County file L94P0022, in which Tract I was dedicated to Fire District No. 40 for use as an emergency aid station.

4. After further evaluation by the Fire District after recording of the plat, the District determined that the emergency call volume within the *Woodside at McGarvey Park* development was low and did not warrant the additional emergency aid station; the area could be adequately served by an existing station. The District therefore no longer needed Tract I for its operations. The Applicant therefore proposes an alteration of the subdivision by converting Tract I from a Fire District facility tract to a residentially developable lot (Lot 115).
5. One caveat to conversion of the lot to residential use is that residential development must comply with KCC 21A.12.140(E), which normally requires a 100 foot building setback from hazardous liquid or gas transmission pipelines located within a regional utility corridor such as the one encumbering the east portion of the site. However, there are a series of setback modification allowances in the code subsection that will allow development of the site with a lesser setback if necessary based on a reasonable use allowance or alternative safety provisions. The pipeline operator has granted permission to cross the pipeline for residential access, subject to certain conditions.

CONCLUSIONS:

1. The proposed subdivision alteration, as conditioned below, would conform to applicable land use controls.
2. If approved subject to the conditions below, the subdivision alteration will make appropriate provisions for the topical items enumerated within RCW 58.17.110, and will serve the public health, safety and welfare, and the public use and interest.
3. The conditions for plat alteration approval set forth below are reasonable requirements and in the public interest.
4. Any dedications of land or easements within and/or adjacent to the proposed plat alteration, as shown on the proposed plat alteration map submitted December 13, 2004, or as required for final plat alteration approval, are reasonable and necessary as a direct result of the development of this subdivision, and are proportionate to the impacts of the development.

DECISION:

The requested plat alteration of the *Woodside at McGarvey Park Division 5* subdivision, as submitted on December 13, 2004, is approved subject to the following conditions of plat alteration approval:

1. A revised final plat for *Woodside at McGarvey Park Division 5* shall be submitted to DDES in accordance with the requirements in KCC 19A for final plats and plat alterations. The final plat alteration shall also be amended, as deemed necessary by DDES, to address any general or specific notes shown on the recorded plat regarding the road improvements, access tract ownership and maintenance, etc.
2. All persons having an ownership interest in the subject property shall sign on the face of the revised final plat a dedication which includes the language set forth in King County Council Motion No. 5952

3. A drainage plan shall be reviewed with the building permit on the new residential lot. Pertinent notes shall be shown on the final plat.
4. The building permit shall demonstrate compliance with KCC 21A.12.140(E). Pertinent notes shall be shown on the final plat.
5. The construction of the driveway and utilities shall comply with the conditions in the November 29, 2004 letter from Williams Northwest Pipeline (i.e., crossing must be at an angle of at least 45 degrees, with at least 3.5 feet of cover over the pipe where the driveway crosses it). Notes to this effect shall be shown on the final plat.
6. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at the final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
7. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to the recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.

ORDERED this 16th day of August, 2006.

Peter T. Donahue, Deputy
King County Hearing Examiner

TRANSMITTED this 16th day of August, 2006, to the following parties and interested persons of record:

Fire District #40
10828 SE 176th St.
Renton WA 98055

Virgilio Lopez
16618 SE 167th St.
Renton WA 98058

Seattle KC Health Dept.
E. Dist. Environ. Health
14350 SE Eastgate Way
Bellevue WA 98007

Sierra Homes Inc.
Attn: Dan Finkbeiner
P.O. Box 59566
Renton WA 98058

Williams NW Pipeline
22909 Redmond Fall City Rd.
Redmond WA 98053

Kinnon Williams
Williams & Williams PSC
18806 Bothell Way NE
Bothell WA 98011

Kim Claussen
DDES/LUSD
MS OAK-DE-0100

Lisa Dinsmore
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Ray Florent
DDES/LUSD
Engineering Review
MS OAK-DE-0100

Carol Rogers
LUSD/CPLN
MS OAK-DE-0100

Steve Townsend
DDES/LUSD
MS OAK-DE-0100

Bruce Whittaker
DDES/LUSD
MS OAK-DE-0100

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before August 30, 2006***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before September 6, 2006***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE AUGUST 3, 2006, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L04ALT04.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Kim Claussen representing the Department; Dan Finkbeiner representing the Applicant; and Kinnon W. Williams, attorney, representing Fire District No. 40.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 DDES file
- Exhibit No. 2 DDES preliminary report dated August 3, 2006
- Exhibit No. 3 Application request received by DDES December 13, 2004
- Exhibit No. 4 Environmental Checklist dated December 13, 2004
- Exhibit No. 5 Determination of Non-significance issued June 30, 2006
- Exhibit No. 6 Affidavit of Posting indicating a posting date of July 3, 2006, received by DDES on July 7, 2006
- Exhibit No. 7 Alteration map received December 13, 2004
- Exhibit No. 8 Recorded plat map received December 13, 2004
- Exhibit No. 9 Letter to Kim Claussen from Chief Paul Witt dated November 23, 2004
- Exhibit No. 10 Williams NW Pipeline letter dated November 29, 2004
- Exhibit No. 11 Assessor's Map NW 25-23-05